

From: VaughnRho@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:54pm
Subject: Microsoft Settlement

Dear DOJ,

I strongly object to the proposed settlement with Microsoft. It is a gross and negligent miscarriage of justice.

I have some unique first-hand knowledge of the kind of financial damage that Microsoft has inflicted upon other companies. I know this because I was at the heart of the project at Compaq that resulted in Microsoft terminating Compaq's license to Windows.

Let me provide some background for you.

I am the former product manager at Compaq Computer Corporation who was responsible for the Compaq/AOL deal in 1995. I worked for Rod Schrock, who was Vice President of the consumer division. You used several of my email messages in your case against Microsoft.

In 1995, I was placed in charge of defining Compaq's consumer online strategy. I proposed a relationship with America Online, one which was great for America Online, and even better for Compaq. It was worth HUNDREDS OF MILLIONS OF DOLLARS IN INCREMENTAL PROFIT to our business unit. The deal, in a nutshell, involved Compaq heavily promoting the AOL service, in exchange for AOL giving Compaq a significant ongoing revenue share.

Microsoft heard about this forming relationship. They contacted us and asked that we work with them instead of AOL, to promote their new online service code-named Marvel (now known as MSN, the Microsoft Network). We responded that we would be happy to work with them, but we would expect them to pay us in a similar fashion to how AOL was to pay us.

Their response? I'll paraphrase: We are Microsoft. We own the customer, not you, Compaq. You Compaq have three choices:

- 1) Do the deal with Microsoft. We will pay you NOTHING, but we'll have a closer relationship, with various intangible benefits (wink wink lower price on the OS, etc.)
- 2) Cancel the deal and do it with nobody. We are OK with that.
- 3) Do the deal with America Online. WARNING: IF YOU PURSUE THIS OPTION, WE WILL PUT YOU OUT OF BUSINESS.

Our team at Compaq reviewed the situation, and concluded that Microsoft must be bluffing. They couldn't do it, because it would be a blatant violation of anti-trust laws. We decided to proceed with the deal.

Shortly afterward, Microsoft sent us a letter telling us that we were in violation of their Windows License agreement, and we could no longer sell PCs with Windows installed. Our license to Windows was terminated. Since Microsoft Windows is the only viable operating system on the market, we were effectively shut down as a company. As Microsoft had threatened, THEY WERE PUTTING US OUT OF BUSINESS!!!

Needless to say, we ended up having to quickly appease Microsoft and redo the deal with AOL, dramatically watering it down and making it effectively into a nothing deal: no substantive benefit to AOL, no substantive benefit to Compaq.

If this kind of behavior is not a flagrant abuse of monopoly power, I don't know what is.

Microsoft regularly wields this kind of abusive power. They have it, and they use it most aggressively. Speak with any of the myriad companies that have fallen victim to Microsoft's stranglehold. Their corpses litter the high-tech industry.

Just how powerful is Microsoft? Powerful enough to put just about any company out of business in short order if they were determined, including other huge powerful companies such as Intel. How would they accomplish such an impossible-sounding feat? Simply by making the following announcement:

"Microsoft today announces a strategic relationship with Advanced Micro Devices. Beginning with the next version of Windows, which will ship in six months, only new co-branded AMD/Microsoft processors will run Windows optimally. Legacy Intel processors will still run Windows, but only at 1/4 speed, and only for a limited time. Microsoft strongly encourages its customers to begin migrating to the AMD/Microsoft platform immediately, in preparation for the release of the exciting new Windows system."

The proposed settlement does little or nothing to prevent this kind of behavior in the future. The absurd thing is, it actually gives Microsoft a government-sponsored leg-up to claim an additional monopoly in one of the rare markets that they don't currently own: the education market.

Microsoft (and some supporters) say that "Microsoft is good for the U.S. economy... they are a brilliant high-tech success story for America ... don't punish successful companies." There is a half-truth in what they say, but their logic is flawed. By that line of thinking, Standard Oil would never have been broken up. In truth, Microsoft has not been a strong force for innovation. To the contrary, they have systematically stifled innovation. Their policy seems to be "crush anything that Microsoft doesn't own and control".

We will never know how much innovation and economic growth might have emerged from companies that fell victim to Microsoft's control ploys. However, we can guess by looking at one rare example where they failed. We know that Microsoft did not want the open Internet to happen, that instead they had a vision of a Microsoft-owned-and-controlled worldwide network (see early presentations on Microsoft's Marvel Project). In this case, for once, they did not move quickly enough to stop this emerging threat, and by the time they began their attack, they met a force so powerful that even they could not stop it. We now know just how much benefit the U.S. and the world have realized from the advent of the Internet. How many other promising technologies and markets has Microsoft successfully stopped? How much economic growth has been stunted by the Robber Baron of high-tech?

The time has come to force Microsoft to play fair.

I would be glad to discuss this further with anyone from the DOJ. Please contact me at your earliest convenience.

Thank you,

Vaughn Rhodes

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